

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE PENNSYLVANIA AVENUE FUNDS,
individually and on behalf of all others similarly
situated,

Plaintiff,

08 Civ. 6857 (PKC)

-against-

ORDER

INXX INC., JACK KACHKAR, STEVEN
HANDLEY, RIMA GOLDSCHMIDT, JAY M.
GREEN and BERKOVITS, LAGO &
COMPANY LLP,

Defendants.
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P. KEVIN CASTEL, District Judge:

Defendant, Jack Kachkar, who is representing himself pro se, submitted a request on January 3, 2010 asking this Court to clarify his deadline for filing a motion to reconsider the Order entered on December 16, 2010 denying defendants' motion to transfer the action and consolidate it with a case pending before the District Court of Puerto Rico. The defendants were advised during that hearing that the deadline to submit a motion for reconsideration was ten days from that date. (Tr. of Dec. 16, 2010 at 35.) Defendant is correct that Local Civil Rule 6.3 provides that a notice of motion for reconsideration shall be served within fourteen days after entry of the court's ruling. Defendant neither filed within ten days nor within fourteen days. Contrary to defendant's suggestion, the time set forth in Rule 59(e) for a motion for a new trial, twenty-eight days, has nothing to do with a motion to reconsider the denial of a motion to transfer venue. Moreover, defendant seeks to file an affidavit in support of the motion for reconsideration which rarely, if ever, is appropriate on a motion to reconsider.

Defendant's motion (Docket # 182) is denied. Lead plaintiff's Motion to Strike (Docket #178) defendant's Motion for Clarification and Leave to File an Affidavit in Conjunction with A Motion for Reconsideration is denied.

Lead plaintiff also requests attorney's fees pursuant to 28 U.S.C. § 1927 for fees incurred in responding to Defendant Jack Kachkar's Motion for Clarification and Leave to File an Affidavit in Conjunction with A Motion for Reconsideration. This Court does not view this pro se defendant's motion as vexatious, and therefore denies lead plaintiff's request for attorney's fees.

SO ORDERED.


P. Kevin Castel
United States District Judge

Dated: New York, New York
January 13, 2011